REMARKS

Claim 1 has been amended to delete a "preferred" feature that already forms the subject matter of claim 15.

Claim 7 has been amended to restrict the definition of the reactions specified in the claim to ammoxidation of propylene or propane. This amendment is made without prejudice to the applicants right to file one or more divisional applications to the subject matter that has now been deleted.

It is therefore submitted that the application is now in order for allowance and an early action this end is respectfully submitted.

Respectfully submitted,

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REMARKS

The main claim has been amended to define the nature of the catalyst and the drying conditions more precisely. Support for revised claim 1 is found in original claims 2, 3 and 4.

The advantages obtained by the invention as now claimed are clear from Table 1 which shows the results obtained by use of catalysts prepared by the various example. From this table it is clear that greater selectivity for the desired product (benzene) and greater yield is obtained using the catalysts of Examples 1 and 3 as compared with the results obtained in Example 2 and the comparative Example. Examples 1 and 3 fall within the scope of the revised claims in that the catalysts are prepared using vacuum rotary drying whereas Example 2 uses atmospheric rotary drying and the comparative example the drying was carried out in a static dryer.

Nothing in the cited art points to the advantages of drying the catalyst under the conditions now specified. It is hypothesized that use of these drying conditions improve the uniformity of the distribution of halogen and platinum in the catalyst which leads to the improved results. The prior art cited does not even point to the uniformity of the catalyst as being a factor in achieving good results let alone point to a way of accomplishing such an objective.

Chang does not relate to catalysts of the type claimed and there is no reason why one skilled in the art would have sought to modify his catalyst to produce the platinum and haloge catalyst of the present invention.

Matusz again is not concerned with the particular types of catalyst specified in the present claims.

Fukunaga has been cited under 35 USC 102 (e). It is, however, pointed out that this provision is only applicable if the priior patent is in the name of another. In the present case, Fukunaga is the applicant in the present case also and the present application is in common ownership with the cited patent. In **in re Rogers** 394 F2d 566 157 USPQ 569 (CCPA 1968), the court took a view that it has continued to follow that "treated commonly-owned applications by different inventors as though they were filed by the same inventor, and then relied upon the doctrine of double patenting ...".

In **In re Longi** 759 F2d 887 225 USPQ 645 (Fed Cir 1985) the court went on to state,

> It is well established that a common assignee is entitled to proceed with a terminal disclaimer to overcome a rejection of double patenting of the obviousness type. Since the second patent would expire simultaneously with the first, this use of a terminal disclaimer is consistent with the policy that the public should be free to use the invention as well as any obvious modifications at the end of the patent's term..